IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 15.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.206 of 2006

Suresh ... Petitioner

vs.

1. The Secretary to the
Government,
Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2. The Commissioner of Police,
Greater Chennai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent, dated 19.01.2006, in Memo No.17/BDFGISV/2006, against the petitioner by name Suresh, son of Palani, aged about 26 years, who is confined at Central Prison, Chennai, set aside the same, direct the respondents to produce the detenu before the Court and set him at liberty.

For petitioner : Mr.V.Parthiban

For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

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O R D E R

P.SATHASIVAM, J.

The petitioner, who is detained as "Goonda", as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by detention order dated 19.01.2006, challenges the same in this Habeas Corpus Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. Mr.V.Parthiban, learned counsel appearing for the petitioner, vehemently contended that the Detaining Authority has failed to apply his mind to the documents placed before him at the time of passing the impugned order of detention. While elaborating the said contention, the counsel submitted that the document, viz., requisition for remand of the accused/detenu, shows that the detenu was arrested also in respect of adverse cases and remanded, but, the Detaining authority, has stated in the grounds of detention that the detenu was in remand only in connection with the ground case; which is contrary to the materials placed before him. According to the counsel, the Detaining Authority, before passing the order of detention, has to clarify the said facts. It is also contended that if the order of remand in the other cases were brought to the knowledge of the Detaining Authority or if he asked about the same after seeing the remand requisition, the mind of the Detaining Authority may swing either way while passing the order of detention.

4. Learned Additional Public Prosecutor, by placing relevant records, submitted that though a requisition was made for remand in three cases, the learned VIII Metropolitan Magistrate, George Town, Chennai-1, has remanded the detenu only in respect of Crime No.9 of 2006 and this was properly informed to the Detaining Authority by the Sponsoring Authority by way of Special Report, dated 17.01.2006, hence, there is no flaw in the procedure followed while passing the impugned order of detention.

5. Copy of the requisition for remand is available at page No.105 of the Paper Book supplied to the detenu. It is true that the Sponsoring Authority requested for 15 days' remand in respect of Crime Nos.9 of 2006, 5 of 2006 and 6 of 2006. However, while passing orders on 05.01.2006, the learned VIII Metropolitan Magistrate, George Town, Chennai, has remanded the accused/detenu till 19.01.2006, only in Crime No.9 of 2006. This information was duly intimated to the Detaining Authority by the Inspector of Police, C-1 Flower Bazaar Police Station, Chennai-1, by way of

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Special Report dated 17.01.2006. The said Report is available at page No.117 of the Paper Book.

6. Mr.V.Parthiban, learned counsel appearing for the petitioner contended that since the requisition contains three Crime Numbers and the same was also forwarded to the Detaining Authority, in the absence of any information as to whether the detenu was remanded in all the three cases, it is obvious that the Detaining Authority, without getting further clarification from the Sponsoring Authority, has mechanically passed the order of detention.

7. After verifying all the above documents, we are unable to accept the said contention. Even though the Sponsoring Authority has sought for remand in all three Crime Numbers, viz., Cr. Nos.9/06, 5/06 and 6/06, admittedly, the learned Magistrate remanded the detenu only in respect of Crime No.9 of 2006, which relates to the ground case occurrence that took place on 05.01.2006. We have already referred to the fact that the Sponsoring Authority forwarded the said information to the Detaining Authority by way of Special Report dated 17.01.2006. Further, the Detaining Authority has to take note of an important fact, viz., whether, on the date of detention, the detenu was in custody/remand by an order of a competent authority. In the case on hand, the order, dated 05.01.2006, of the VIII Metropolitan Magistrate, Chennai-1, amply shows that the detenu was remanded till 19.01.2006. In the absence of any other order by the Magistrate, it is clear that the detenu was remanded only in Crime No.9 of 2006. In such circumstances, there would not be any confusion in the mind of the Detaining Authority as claimed by the learned counsel for the petitioner. Further, as rightly pointed out by the learned Additional Public Prosecutor, even the detenu filed Bail Application only in respect of Crime No.9 of 2006. The said Application is Crl.M.P. No.265 of 2006 and the same was filed on 10.01.2006 before the Principal Sessions Judge, Chennai. It is not the case of the detenu that he had moved bail application in respect of other two Crime Numbers , viz., Cr.Nos.5/06 and 6/06. We are satisfied that there was no confusion at all in the mind of the Detaining Authority at the time passing the impugned order of detention. Inasmuch as the detenu was remanded by a valid order passed by a competent authority and the said material was placed before the Detaining Authority, it is clear that, only after considering all the relevant materials and after being satisfied that if the detenu comes out on bail, he will indulge in further activities, which will be prejudicial to the maintenance of public order; the authority rightly passed the impugned order of detention. We find no substance in the contention raised by the learned counsel for the petitioner.

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8. Except the above contention, no other point has been urged before us.

9. In the light of what is stated above, we do not find any error or infirmity for interference. Habeas Corpus Petition fails and the same is dismissed.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, Prohibition & Excise Dept.,
   Fort St. George, Chennai-9.
2. The Commissioner of Police, Greater Chennai.
3. The Superintendent, Central Prison, Chennai
   (In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law & Order),
   Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.V. Parthiban, Advocate SR No.24548

JP(CO)
SR/19.6.2006

Order in
HCP No.206 of 2006.

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